

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1 and 2 are rejected under 35 U.S.C. 103(a) over the patent to Hecht in view of the patent to Fisher.

Claims 6-8 are rejected under 35 U.S.C. 103(a) over the patent to Hecht in view of the patents to Fisher '709 and '188.

At the same time the drawings are objected to and the disclosure is objected to as well.

Finally, claims 3 and 4 were not rejected by the Examiner over the art.

The Examiner's indication of the allowability of claims 3 and 4 have been gratefully acknowledged. In connection with this, claims 3 and 4 have been canceled and new claims 13 and 14 have been submitted. Claim 13 combines the features of the original claims 1, 2 and 3, while claim 14 combines the features of the original claims 1 and 4. It is believed that

these claims are now in allowable condition.

In connection with the Examiner's objection to the drawings and the specification, applicants have amended the specification. It is believed that the grounds for these formal objections and rejections are therefore eliminated.

After carefully considering the Examiner's grounds for the rejection of the claims over the art, applicants have retained claim 1, the broadest claim on file, as it was.

It is respectfully submitted that in applicant's opinion this claim clearly and patentably distinguishes the present invention from the references. Claim 1 defines in addition to other features, that the striker is supported on the outside of the drive means. All features defined in claim 1, with the exception of this feature, are disclosed in the patent to Hecht. The Examiner indicated that this feature is shown in the patent to Fisher. It is respectfully submitted that the patent to Fisher does not show any striker at all.

The Examiner did not explain which component he referred to

as a striker. The Examiner stated that it is near the tool stop 108. The tool stop may serve for preventing the tool for fall too far into the hollow shaft 106 while mounting with the arrangement 112. This tool stop or any part close to it can not be however a striker for the following reasons:

A striker is an element which is provided for striking at something. The tool stop and any part near to it disclosed in the patent to Fisher is fixed to the shaft 106. When the tool is in operation, the shaft is moving up and down due to the guidance of the followers 102 in the cam track 104. Since the shaft 106 is connected to the tool bit by means of the arrangement 112, the shaft 106, the tool stop and the tool moves synchronously non turningly up and down. Nothing can strike the tool and could serve as a striker.

Therefore it is respectfully submitted that the patent to Fisher does not even disclose a striker. The feature that the striker is supposed on the drive means is of course not shown in the patent to Fisher. The Examiner interprets the motor 804 as drive means. As defined in claim 1 a power tool is claimed with a drive means drivingly supported in housing. It is meant that the driving means is a drivable driving means and not a non-drivable means fixed in the housing as the motor 84 is.

In view of the presented remarks, it is believed to be clear that claim 1, the broadest claim on file, defines the features which are not disclosed in the references and can not be derived from them as a matter of obviousness. Therefore, claim 1, the broadest claim on file, should also be considered as patentably distinguishing over the art and should also be allowed.

As for the retained dependent claims, these claims depend on claim 1, they share its presumably allowable features, and therefore it is respectfully submitted that they should be allowed.

The Examiner indicated that claims 5 and 9-10 were withdrawn from further consideration as being drawn to a non elected species and there being no allowable generic or linking claim, and election was made without traverse on paper no. 8. Applicants have to respectfully disagree with this position. In the Amendment of January 28, 2003 applicants traversed the Examiner's election requirement and also listed generic claims.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,

Michael J. Striker
Attorney for Applicants
Reg. No. 27233

by [Signature] 2/25/03